

Appl. No. 09/909,439
Amdt. dated March 6, 2006
Reply to Office Action of November 4, 2005

Remarks

The present amendment responds to the Official Action dated November 4, 2005.

A petition for a one-month extension of time and authorization to charge Deposit Account No. 50-1058 for the fee for this extension accompany this amendment. The Official Action objected to claims 1 and 6 as informal. The Official Action rejected claims 1-3, 5, 6-8 and 10 under 35 U.S.C. §103(a) based on Dhar et al. U.S. Patent Publication No. 2002/0040339 A1 ("Dhar") in view of T.A. Myers & Co., *Real Estate Problem Loans: Workout Strategies and Procedures*, Dow Jones-Irwin 1990 ("Myers"). Claims 4 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dhar in view of the Background of the Invention section of the specification, Myers, and further in view of Fletcher U.S. Patent No. 6,112,190 ("Fletcher"). These grounds of rejection are addressed below following a brief discussion of the present invention to provide context.

Claims 1 and 6 have been amended to be more clear and distinct. More particularly, claims 1 and 6 have been amended to address the informality objection as discussed below. Claims 1-10 are presently pending.

The Present Invention

A system according to an aspect of the present invention provides automated evaluation of a proposed workout for problem loans. A server computer communicates with a network of terminals, such as personal computers communicating with the server computer through the Internet. A personal computer is suitably used to transmit information relating to a proposed

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workout for a financially troubled borrower. The server computer suitably has access to stored information relating to the borrower and the existing loan. The server computer suitably operates under the control of workout approval analysis software, and uses the transmitted information and the stored information relating to the borrower and the existing loan to automatically evaluate the proposed workout in light of criteria for approving, deferring or denying a proposed workout. The server computer transmits appropriate notices in response to a transmission of a proposed workout, such as a notice of approval if the transmitted and retrieved information meet predetermined criteria, or instructions for further or alternative actions, such as submitting a workout package for manual review, if the information does not meet the predetermined criteria.

Informality Objection to Claims 1 and 6

The Examiner is thanked for his careful reading of the claims. Claims 1 and 6 have been amended to change "to" to "for" as suggested by the Examiner.

The Art Rejections

As addressed in greater detail below, Dhar, Myers, and Fletcher do not support the Official Action's reading of them and the rejections based thereupon should be reconsidered and withdrawn. Further, the Applicants do not acquiesce in the analysis of Dhar, Myers, and Fletcher made by the Official Action and respectfully traverses the Official Action's analysis underlying its rejections. Additionally, it is not admitted that Dhar is in fact prior art, but rather than undertake to swear behind it, Applicants choose at this time to distinguish it.

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Claims 1-3, 5, 6-8 and 10 were rejected under 35 U.S.C. §103(a) based on Dhar in view of Myers. Claim 1, as amended, claims a network of personal computers connected into a network administered by a central server computer. Each personal computer in the network includes a network interface for transmitting servicer inputs to, and receiving outputs from, the server computer. Each personal computer in the network further includes display screens for receiving inputs from, and providing outputs to, a servicer on behalf of a financially troubled borrower. The inputs and outputs include inputs and outputs relating to a proposed workout to resolve a problem status of an existing loan obligation of the financially troubled borrower. The central server computer has a central processing unit that runs automatic workout approval analysis software and has access to electronically stored information relating to the financially troubled borrower and existing loan related information necessary to analysis of a decision for approval, deferral or rejection of the proposed workout. The central server computer is operative, under the control of the workout analysis software, to analyze details of the proposed workout in light of criteria established by a mortgage insurer. The analysis takes into account concessions that must be made in order to accomplish the proposed workout. The analysis further takes into account financial conditions related to the borrower and the property influencing the desirability of making the concessions necessary to accomplish the loan workout and the likelihood of success of resolving the problem status of the loan through the loan workout. These limitations are not taught or made obvious by Dhar in view of Myers.

Dhar teaches a system for rendering credit decisions, including a workflow designer, an interface and a database. The system also includes checklists created by the workflow designer,

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with a checklist being used to evaluate an application for a loan offering associated with the checklist. The system of Dhar is directed toward evaluating new applications for credit. New applications for credit typically require a relatively straightforward gathering and evaluation of data, such as comparison of income and credit data against predetermined criteria.

Unlike Dhar, the present invention, on the other hand, as presently claimed by claim 1, deals with a more difficult problem, that is, evaluating a proposal to resolve a problem status of an existing loan. The resolution will typically require access to existing loan related information and concessions to be made to the borrower. The invention as claimed by claim 1 provides for a central server, under the control of automatic workout approval analysis software, which has access to electronically stored information relating to the financially troubled borrower and existing loan related information necessary for analysis of a decision for approval, deferral, or rejection of a proposed workout. The invention as claimed by claim 1 also provides for the central server, under the control of automatic workout approval analysis software, to evaluate the concessions to be made and the conditions under which the concessions are to be made. Typical conditions evaluated in considering whether to approve a proposed workout include the financial condition of the borrower, the extent of the financial distress of the borrower and whether the borrower's financial distress is temporary or long term, whether or not the borrower has equity in the property, whether or not the borrower has declared bankruptcy and the details of the bankruptcy filing, and other considerations relevant to determining the desirability of taking steps needed to resolve a loan's problem status.

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Dhar addresses a system for automatically approving a new loan. If the loan is approved and agreed to by the customer, a lender/borrower is subsequently created. However, while Dhar's system is analyzing whether to approve a loan with customer, such a lender/borrower relationship does not exist. Thus, Dhar does not teach and does not suggest access to existing loan related information necessary for analysis of a decision of a proposed workout as presently claimed in claim 1.

Furthermore, the system of Dhar would typically simply reject an application for a new loan submitted by a financially distressed borrower, or would restrict the offers presented to those appropriate for a high risk borrower. In conditions contemplating the use of a system according to the present invention, however, the option of simply rejecting the loan or offering stringent terms for the loan is not available because the loan obligation has already been entered into and the funds advanced. The system of the present invention, as presently claimed by claim 1, provides for efficiently evaluating proposed steps to be undertaken to reduce potential losses associated with an existing loan, a situation not contemplated or addressed by Dhar.

Myers fails to cure the admitted deficiencies of Dhar. Myers is a lenders guide to a uniform approach to loan workouts. Myers provides a discussion of an analysis framework consisting of four steps including an early diagnosis of the problem asset, information gathering and analysis, development of a plan of action, and an implementation of the plan of action. In the diagnosis step, Myers provides examples of what a lender should monitor as early warning signs when managing different types of loans such as permanent loans and construction loans. In the information gathering and analysis step, Myers discloses gathering information relating to the

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borrower, relating to legal issues, relating to project monitoring, and relating to marketing alternatives. Myers, p. 16, line 37 – p. 17, line 2. When gathering information on the borrower, Myers merely discloses general factors to consider such as the borrower's integrity and motivation to see a construction project through troubled times and legal consequences. Myers, p. 17, lines 9-18. If the lender's analysis leads to a conclusion that a workout should proceed with the existing borrower, Myers suggests different alternatives. Myers, p. 18, lines 13-33. Although Myers describes some benefits and disadvantages of particular loan workout alternatives, Myers is, however, silent with respect to coupling automatic analysis with automatic workout approval, deferral, or rejection as claimed. Rather, Myers' approach relies on a human "decision maker to generate informed, confident decisions that maximize the return in problem situations." Myers, p. 26, lines 4-7. At p. 14, lines 20-24, Myers does teach using Lotus 1-2-3 spread sheets to reflect assumptions of appraised value of property. However, there is no suggestion in Myers or Dhar to automatically generate loan workout decisions in the manner claimed. Furthermore, Myers and Dhar do not provide further instructions automatically over the network if the proposed workout does not meet criteria established by a mortgage insurer. As such, if anything, Myers teaches away from the present invention or represents the failure of others.

The Response to Arguments section of the Official Action at p. 8 states that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Dhar by incorporating the established loan workout analysis, as disclosed by the Background Section of the present specification and Myers, into the automated loan decision

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analysis software and workflow/decision engine, as disclosed by Dhar, to provide “a faster and automated system through which to run loan workouts, and, as disclosed by Dhar, produce an automatic decision.” Applicants respectfully disagree. Dhar provides no suggestion or motivation of extending its initial loan approval system to handle complex tasks of analyzing “details of the proposed workout in light of criteria established by a mortgage insurer, the analysis taking into account concessions that must be made in order to accomplish the proposed workout, the analysis further taking into account financial conditions related to the borrower and the property influencing the desirability of making the concessions necessary to accomplish the proposed workout and the likelihood of success of resolving the problem status of the loan through the proposed workout,” as claimed in claim 1. Furthermore, Myers provides no suggestion of how to automate its complex set of manual guidelines. Although it’s axiomatic that any system wants to be “faster”, the teachings of Dhar’s initial loan approval system are not combinable with the teachings of Myers’ manual loan workout guidelines.

The Response to Arguments section of the Official Action at p. 8 states that it would have been obvious to one of ordinary skill in the art at the time the invention was made “to have modified Dhar and the Background Section of the present specification by incorporating the ability to make concessions to increase the likelihood of success of securing the proposed workout, as disclosed by Myer, to increase the number of tasks that the automated workout system can manage without human interaction, such as through Dhar’s usage of ‘different combinations of parameters.’ (see Dhar, p. 9, para. 98)” Applicants respectfully disagree. At p. 9, para. [0098], Dhar’s parameters merely addresses the ability of a bank to make particular

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settings of parameters to vary the decision bases for generating different instant loan offers. As described above, deciding a loan workout is a more difficult problem because it typically requires concessions to be made to the borrower. Claim 1 provides for evaluating the concessions to be made and the conditions under which the concessions are made. Thus, any combination of parameters to approve an initial loan as taught in Dhar could not teach and could not suggest the difficult problem of evaluating concessions and the conditions under which the concessions are to be made as claimed.

The Official Action further relies on In re Venner, 120 USPQ 192 for the notion that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to have automated the processes, since it has been held that broadly providing a mechanical or automatic means to replace manual activity that accomplishes the same result involves only routine skill in the art.” (emphasis added) Applicants respectfully disagree with this analysis of In re Venner. In re Venner discusses an apparatus for molding trunk pistons which included a “time-controlled means.” The “time-controlled means” actuated a fluid motor in order to withdraw a middle core section at the proper time after pouring metal into a mold. Unlike the present Official Action, the Court in Venner found all the elements in the prior art including the “time-controlled means.” Considering all the elements were considered old, In re Venner did not hold that a mechanical or automatic means to replace manual activity that accomplishes the same result involves only routine skill in the art. No such rule has ever been broadly applied in the manner suggested by the present Official Action as it would preclude automation, in general, and would foreclose many inventions which automate manual activity such as the automated teller

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machine, a vending machine, most microprocessors and other computer applications, and the like.

The relied upon art does not address a central server computer being operative, “under the control of the workout analysis software, to analyze details of the proposed workout in light of criteria established by a mortgage insurer, the analysis taking into account concessions that must be made in order to accomplish the proposed workout, the analysis further taking into account financial conditions related to the borrower and the property influencing the desirability of making the concessions necessary to accomplish the proposed workout and the likelihood of success of resolving the problem status of the loan through the proposed workout,” as claimed in claim 1. (emphasis added) See also claim 6. Consequently, since the claimed workout analysis software is not suggested and is not taught in the manner claimed by the relied upon art, In re Venner does not apply.

Dependent claims 4 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dhar in view of the Background of the Invention section of the specification, Myers, and further in view of Fletcher. Fletcher fails to cure the deficiencies of Dhar and Myers. Since claims 4 and 9 depend from claims 1 and 6 as presently amended, claims 4 and 9 distinguish from the references in the same manner as claims 1 and 6, respectively.

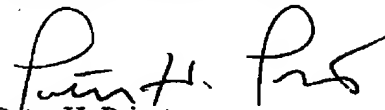
The relied upon references fail to recognize and address the problems described above in the manner advantageously addressed by the present claims. The claims as presently amended are not taught, are not inherent, and are not obvious in light of the art relied upon.

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Conclusion

All of the presently pending claims, as amended, appearing to define over the applied references, withdrawal of the present rejection and prompt allowance are requested.

Respectfully submitted,



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